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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/501,799

07/16/2004

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MH0857US (#90556)

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28672 7590 09/02/2009
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EXAMINER

WATKINS III, WILLIAM P

ART UNIT

PAPER NUMBER

1794

MAIL DATE

DELIVERY MODE

09/02/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

1. Claims 1, 3, 5-7, 9-13 and 14-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. There does not appear to be any support in the specification for the concept of multiple layer strips being formed by folding of a single sheet. Therefore there being no "folds" especially as argued by applicant to exclude Heikaus et al. would appear to be new matter. The rejection using Heikaus et al. is being maintained below in the interest of judicial economy in the event of an appeal, but would be overcome if the "no folds" language in the instant claims is found to be supported in the original specification.

2. Applicant's arguments filed 18 May 2009 regarding the 112 rejection given in section 1 of the detailed portion of the instant office have been fully considered but they are not persuasive.

Applicant argues that a wrinkle is considered as a type of fold and has supplied various dictionary definitions to support this contention. The examiner has carefully examined the evidence supplied and finds that the wrinkle type of "folds" described in the definitions are of a small nature and do not include large structural folds as applicant argues the word should be constructed in order to overcome the rejection given below

using Heikaus et al. As applicant's claim language would exclude both small wrinkle type folds as well as large intended structural folds, and such a construction is not supported in the instant specification as filed, the above new matter rejection is maintained.

3. Claims 1, 3, 5-7 and 9-20 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The description in the specification and the claims limitation based on it, that the width of the holes remains constant when stretched because of the adjacent strips being in contact with the hole edges would appear to be new matter. Applicant relies on Figure 4 that is the stretched version of Figure 1. As a first point it is not stated if these drawings are to scale. Even if they were to scale, it would appear that the ratio of the width of the attached strips to the width of the areas with holes changes when the strip of Figure 1 is stretched into the strip in Figure 4. It is unclear if the width of the strips contracts, or if the width of the holes expands, or if both of them change to some absolute degree. There is no clear support for the width of the holes staying constant in Figures 1 or 4. The art rejections against claims 1, 3, 5-7 and 9-13 are maintained below in the interest of judicial economy in the event of an appeal, but would be

overcome if the language regarding constant width in the instant claims is found to be supported in the original specification.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1, 3, 5-7, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tiozzo (EP 0909721 A1) in view of Paulett (U.S. 5,935,681) further in view of Calligarich (U.S. 4,758,297).

Tiozzo teaches non-perforated strips that may be extruded or laminated onto a stretch film that is perforated in areas not covered by the strips (Figure 3, sections 0029 and 0033). The width of the holes may be varied at will (section 0038) and the strips limit expansion of the width of the holes (0039). Paulett teaches forming a hole with a rim thicker than the thickness of the sheet by melting the film with a heated needle or other mean, so that the rim forms when the melted plastic solidifies (element 26, col. 3, lines 25-40). Calligarich explicitly shows a rim with a thickness greater than the hole and that allows greater tear prevention (Figure 5, col. 4, lines 25-30). The instant invention claims a stretch film with rows of holes with strips laminated between the rows of holes, with the holes in each row extending to the edge of the strips and with a ring

thicker than the film thickness formed around the perforations. It would have been within the ordinary skill of the art to have extended the hole size of Tiozzo up to the edge of the strips in view of the teaching to vary the hole size at will. It would also have been obvious to have expanded the width of the strips to further limit the tendency of the holes to widen because of the teachings of Tiozzo. The hole formation may be made by heated perforation (section 0025), which produces a reinforced rim. It further would have been obvious to one of ordinary skill in the art to form a ring with heat around the holes of Tiozzo in order to prevent tearing because of the teachings of Paulett and Calligarich.

6. Claims 1, 3, 5-7, 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Heikaus et al. (WO 01/60709 A1, US 2005/0123721 being taken as an equivalent translation of the WO '709 reference) in view of Paulett (U.S. 5,935,681) further in view of Calligarich (U.S. 4,758,297).

Heikaus et al. teaches a stretch film with strips that are laminated to the film and rows of holes which are perforated using heat between the strips (Figure 2b, sections 0016 and 0009 of the translation). Paulett teaches forming a hole with a rim thicker than the thickness of the sheet by melting the film with a heated needle or other mean, so that the rim forms when the melted plastic solidifies (element 26, col. 3, lines 25-40). Calligarich explicitly shows a rim with a thickness greater than the hole and that is allows greater tear prevention (Figure 5, col. 4, lines 25-30). The instant invention claims rows of holes between non-perforated reinforcing strips with the holes extending

up to the edge of the strips and with a ring thicker than the film thickness formed around the perforations. It would have been obvious to one of ordinary skill in the art to have varied the hole size of Heikaus et al. up to the edge of the strips, depending on the need for ventilation, as the reference teaches that the strips will prevent the holes from tearing beyond the edge of the strips (section 006). Use of heated perforation means will produce rims around the holes. It further would have been obvious to one of ordinary skill in the art to form a ring with heat around the holes of Heikaus et al. in order to prevent tearing because of the teachings of Paulett and Calligarich.

7. Claims 14-20 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st paragraph, set forth in this Office action.

The cited prior art does not teach a second layer of strips on top of a first layer of strips that are not connected except at their major faces in combination with the other limitations of claim 14.

8. Applicant's arguments 18 May 2009 have been considered but are not found to be persuasive.

The examiner's responses to the arguments regarding the "fold" language are given above. Applicant's new limitation of constant hole width while stretching is treated in the new matter rejection given above. The art rejections are maintained in the face of these amended claim limitations being new matter, but be over come if these limitations are found to be supported in the instant specification. New claims 14-20 have no art

rejections applied against them for the reasons given above, but are subject to the new matter rejections.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to William P. Watkins III whose telephone number is 571-272-1503. The examiner works an increased flex time schedule, but can normally be reached Monday through Friday, 11:30 A.M. through 8:00 P.M. Eastern Time. The examiner returns all calls within one business day unless an extended absence is noted on his voice mail greeting.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Sample can be reached on 571-272-1376. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 1794

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WW/ww
September 1, 2009

/William P. Watkins III/

Primary Examiner, Art Unit 1794